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(SPACE BELOW FOR FILING STAMP ONLY)

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2011 JUN 21 PM 4:22

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 OMAR RODRIGUEZ; CINDY GUILLEN-
12 GOMEZ; STEVE KARAGIOSIAN;
13 ELFEGO RODRIGUEZ; AND JAMAL
14 CHILDS,

15 Plaintiffs,

16 -vs-

17 BURBANK POLICE DEPARTMENT; CITY
18 OF BURBANK; AND DOES 1 THROUGH
19 100, INCLUSIVE.

20 Defendants.

CASE NO.: BC 414 602

Complaint Filed: May 28, 2009

Assigned to: Hon. Joanne B. O'Donnell, Judge

**PLAINTIFF'S OPPOSITION TO MOTION
TO COMPEL FURTHER DISCOVERY
RESPONSES AND FOR SANCTIONS**

DATE: June 28, 2011

TIME: 8:00 a.m.

PLACE: 707 Wilshire Blvd, 46th Floor
Los Angeles, CA 90017

21 BURBANK POLICE DEPARTMENT; CITY OF
22 BURBANK,

23 Cross-Complainants,

24 -vs-

25 OMAR RODRIGUEZ, and Individual,

26 Cross- Defendant

Discovery Referee: Hon. Diane Wayne, Retired

27 Plaintiffs, Omar Rodriguez, Cindy Guillen-Gomez and Steve Karagiosian, submit the
28 following Memorandum of Points and Authorities in opposition to Defendant City of Burbank's
motion to compel further discovery responses and for sanctions.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. PLAINTIFFS' RESPONSES ARE FULL AND COMPLETE**

3 Defendant City of Burbank had filed a previous motion to compel further responses to
4 special interrogatories, which was granted. Plaintiffs then provided supplemental responses. In its
5 current motion, Defendant seeks to compel yet further responses to the same interrogatories.

6 During the hearing before the Discovery Referee on Defendant's previous motion to compel
7 further responses, Plaintiff argued that the interrogatories were compound. The Discovery Referee
8 disagreed, and limited the requests in a way that prevented them from being compound. In the 7th
9 Report & Recommendation of the Discovery Referee, which was adopted by the Court in its order,
10 the Discovery Referee stated:

11 “The Interrogatories do not ask the Plaintiffs to identify each ‘RETURNED/DESTROYED
12 DOCUMENT’ and then identify the ‘SOURCE’ from which they obtained that specific
13 ‘RETURNED/DESTROYED DOCUMENT.’ Instead, the Interrogatories ask for a general
14 list of all “SOURCE[s]” from which the Plaintiffs and or their counsel obtained any
15 ‘RETURNED/DESTROYED DOCUMENT.’”

16 This is what Plaintiffs have provided in their responses, which state, in part:

17 “The source from which the responding party or his agents obtained originals or copies of
18 any return/destroyed documents is as follows: The responding party received as many as 10
19 bankers boxes filled with personal effects and documents from Lt. John Murphy. The
20 responding party is informed and believes that the majority of the documents responsive to
21 this interrogatory were contained in those boxes. In addition, documents responsive to this
22 request were obtained from the Burbank Police Department during the responding party's
23 tenure as a police officer, prior to April 15, 2009. The remainder of the identified
24 documents were delivered anonymously, including, without limitation, any anonymous
25 letters.”

26 Thus, Plaintiffs have responded in the manner, set forth by the Discovery Referee, that does
27 not make the requests compound. Now, in its current motion, Defendant argues that it is entitled to
28 more detail. In doing so, Defendant is seeking responses that go beyond what was previously

1 ordered. Thus, Defendant's motion should be denied.

2 **II. DEFENDANT IS IMPROPERLY SEEKING THREE SETS OF**
3 **RESPONSES AND VERIFICATIONS FOR ONE SET OF INTERROGATORIES**

4 Defendant complains that it received only one verification, from Plaintiff Omar Rodriguez,
5 and did not receive responses or verifications from Plaintiff's Steve karagiosian or Cindy Guillen-
6 Gomez. However, Defendant is not entitled to three sets of responses and/or verifications.

7 Defendant propounded a single set of special interrogatories, but improperly listed all three
8 plaintiff's as the responding party. The *Code of Civil Procedure* does not permit a party to
9 propound a single set of interrogatories on more than one party. *Code of Civil Procedure* Section
10 2030.010 subdivision (a) provides: "Any party may obtain discovery . . . by propounding to any
11 other **party** to the action written interrogatories to be answered under oath." (Emphasis added.)
12 Section 2030.060 subdivision (b) provides: "In the first paragraph immediately below the title of
13 the case, there shall appear the identity of the propounding party, the set number, and the identity of
14 the responding **party**." (Emphasis added.) The use of the singular form of the word "party" in both
15 of these sections makes clear that a single set of interrogatives is to be directed to a single party, not
16 to multiple parties.

17 If Defendant wanted separate responses and/or verifications from each of the three Plaintiffs,
18 it should have propounded a separate set of interrogatories on each Plaintiff. The improper method
19 used by Defendant invites confusion, as it did here resulting in Defendant's complaints that it does
20 not know who the "responding party" refers to in the response.

21 Defendant's confusing and improper procedure should not be countenanced. Thus,
22 Defendant is entitled to a single set of responses with a single verification, which is what it
23 received. Consequently, its motion should be denied.

24 **III. DEFENDANT'S MOTION IS INACCURATE**

25 In its motion, Defendant states: "Plaintiffs were found to be in possession of stolen
26 privileged documents." (Defendant's Memorandum of Points and Authorities, p.1, l. 6.) There has
27 been no such finding that Plaintiff's were in possession of "stolen privileged documents."

28 In its motion, defendant states: "Plaintiffs' counsel finally informer Burbank that he **refused**

1 to respond to the interrogatories in any "meaningful fashion." (Defendant's Memorandum of Points
2 and Authorities, p. 2, ll. 3-4.) However, what Plaintiff's counsel actually said in his meet and
3 confer letter to defense counsel was: "Now, you repeat the process by asking extremely compound
4 questions, intended to illicit a response concerning documents which are no longer in plaintiff's
5 possession and which you refuse to specifically identify. We are simply **unable** to respond in any
6 meaningful fashion to such requests." (Letter from Solomon E. Gresen to Lawrence A. Michaels
7 dated February 10, 2011, Exhibit "M" to Declaration of Lawrence L. Michaels, etc., p. 15 of the
8 exhibits, third paragraph, emphasis added.) Plaintiff will leave it to the Discovery Referee to
9 determine if Defendant was trying to mislead her.

10 **IV. DEFENDANT'S REQUEST FOR SANCTIONS SHOULD BE DENIED**

11 Since Defendant's motion lacks merit, it follows that its request for sanctions should be
12 denied. Even if the Referee finds some merit in Defendant's motion, Plaintiffs provided further
13 responses in good faith and had substantial justification in opposing Defendant's motion. Thus,
14 sanctions would be inappropriate. This is especially true with respect to Defendant's
15 draconian request for terminating sanctions against Plaintiff Omar Rodriguez.

16 **V. CONCLUSION**

17 For the foregoing reasons, Plaintiff respectfully requests that Defendant's motion be denied
18 in its entirety.

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21 DATED: June 15, 2011

LAW OFFICES OF RHEUBAN & GRESEN

22
23 By: Steven M. Cischke
Steven M. Cischke

24 Attorneys for Plaintiffs Omar Rodriguez, Steve Karagiosian,
25 Cindy Guillen-Gomez, Elfego Rodriguez and Jamal Childs
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles. I am over the age of eighteen and am not a
4 party to the within action. My business address is 15910 Ventura Boulevard, Suite 1610, Encino,
California 91436.

5 On June 16 2011, I served a copy of the following document described as **PLAINTIFF'S**
6 **OPPOSITION TO MOTION TO COMPEL FURTHER DISCOVERY RESPONSES AND**
FOR SANCTIONS on the interested parties in this action as follows:

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16 XX **BY MAIL:** By placing a true copy thereof enclosed in a sealed envelope(s) addressed
17 as above, and placing each for collection and mailing on that date following ordinary
18 business practices. I am "readily familiar" with this business's practice for collecting
and processing correspondence for mailing. On the same day that correspondence is
19 placed for collection and mailing, it is deposited in the ordinary course of business with
the U.S. mail Postal Service in Encino, California, in a sealed envelope with postage
20 fully prepaid.

21 XX **STATE:** I declare under penalty of perjury under the laws of the State of California that
the above is true and correct.

22 EXECUTED on June 16, 2011 at Encino, California.

23 _____
24 Daphne Johnson